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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,742	07/24/2006	Uwe Holland	85844	4278
22342 7590 02/25/2009 FITCH EVEN TABIN AND FLANNERY 120 SOUTH LASALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				
EXAMINER MARCO ANTONI, PAUL D				
ART UNIT 1793		PAPER NUMBER		
MAIL DATE 02/25/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,742

Applicant(s)

HOLLAND ET AL.

Examiner

Paul Marcantoni

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-6 and 14-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 5, and 6, drawn to coated particles in a composition (substrate particles coated with liquid polymer).

Group II, claim(s) 2, drawn to hydraulic binder/cement particles coated with liquid polymer.

Group III, claim(s) 3, drawn to inorganic non-hydraulic particles (e.g. aluminum powder) coated with liquid polymer.

Group IV, claim(s) 4, drawn to an organic particle (e.g. organic retarder compounds such as citric or tartaric acid) coated with liquid polymer.

Group V, claim(s) 14 and 24, drawn to a mixture for controlled curing containing Group I composition.

Group VI, claim(s) 15, drawn to a material for controlled internal drying comprising Group I composition.

Group VII, claim(s) 16-23, drawn to a method of controlling curing over hydratable building materials (ie hydraulic cements) using Group I composition. (Note: This method claim would be rejoinable with one of Groups I, II, III, or IV assuming the composition claimed (and if allowed) is of the same scope as this method claim.

The inventions listed as Groups I do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Claim 1 is anticipated or obvious over WO 98/25865 A, US 3,345,302, DE 19651448 A, WO 97/33685, GB 370,878 A, CH 270,010 A, or US 5,254,385 A (All X references from PCT Int'l Search Report over claim 1). All teach a coated material comprising a reactive support material and liquid polymer material (applied) coated on the "support" material or particle substrate thus anticipating applicant's claim 1. Even if not anticipated, the amount of coating fully covers the substrate or support and would have at least been prima facie obvious to one of ordinary skill in the art.

Note that applicants can overcome the restriction above by admitting on record that all Groups of invention are obvious variants. The restriction would thus be withdrawn immediately.

Election of Species:

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows: (NOTE: Do not select one species from each category below but only ONE species from all categories for initial examination)

For the *hydraulic binder or latent hydraulic binder species*, see claim 2 and elect one species of hydraulic binder.

For the *inorganic additive* (if elected select only one), see claim 2 and elect one of the species of inorganic additive.

For the *organic compound* (if elected only select one), see claim 4 and elect one of the species of organic compound.

For the *polymer*, applicants must select one of the species for examination selected from the group consisting of those listed in claim 5.

Again, only select one species from either hydraulic binder, inorganic additive, or organic compound and one species of polymer for initial election and examination.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims

subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

For the above restriction and election, the following claim(s) are generic: Claim 1.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: (Note: the reasons for restriction and election are the same because it has been shown that claim 1 provides no special technical contribution over the prior art and restriction and election thus is proper.

The inventions listed as Groups I do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Claim 1 is anticipated or obvious over WO 98/25865 A, US 3,345,302, DE 19651448 A, WO 97/33685, GB 370,878 A, CH 270,010 A, or US 5,254,385 A (All X references from PCT Int'l Search Report over claim 1). All teach a coated material comprising a reactive support material and liquid polymer material (applied) coated on the "support" material or particle substrate thus anticipating applicant's claim 1. Even if not anticipated, the amount of coating fully covers the substrate or support and would have at least been prima facie obvious to one of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Paul Marcantoni/
Primary Examiner, Art Unit 1793